

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Colin Gardner	Team: Squad #11	CCRB Case #: 201601712	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 03/02/2016 4:25 PM	Location of Incident: Over the phone	Precinct: 47	18 Mo. SOL 9/2/2017	EO SOL 9/2/2017	
Date/Time CV Reported Thu, 03/03/2016 8:06 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 03/03/2016 8:06 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Robert Salerno	02909	943769	047 DET

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Robert Salerno	Abuse: Det. Robert Salerno threatened § 87(2)(b) with the use of force.	
B.DT3 Robert Salerno	Off. Language: Det. Robert Salerno made offensive remarks to § 87(2)(b)	

Case Summary

On March 2, 2016, at approximately 4:25 p.m., Det. Robert Salerno from the 47th Precinct Detective Squad texted § 87(2)(b) “I will issue a warrant for your arrest & you can be dragged in here like an animal. Good luck sir (Allegations A and B).” § 87(2)(b), § 87(2)(a) 160.50

There is a photograph of the text message sent by Det. Salerno for this incident (see **Board Review 12**).

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation.
- § 87(2)(b) has no prior criminal convictions (see **Board Review 5**).
- § 87(2)(b) did not file a Notice of Claim regarding this incident (see **Board Review 13**).
- As of May 6, 2016, the results of § 87(2)(b) filing a Notice of Claim are pending (see **Board Review 14**).

Civilian and Officer CCRB Histories

- This was the first CCRB complaint filed by § 87(2)(b) (see **Board Review 4**).
- § 87(2)(b)
- Det. Robert Salerno has been a member of the service for 9 years and there have been 7 allegations in 5 cases made against him, not including this case. § 87(2)(g)

Findings and Recommendations

Allegation A – Abuse of Authority: Det. Robert Salerno threatened § 87(2)(b) with the use of force.

Allegation B – Offensive Language: Det. Robert Salerno made offensive remarks to § 87(2)(b)

It is undisputed that Det. Salerno sent § 87(2)(b) a text message that stated, “I will issue a warrant for your arrest & you can be dragged in here like an animal. Good luck sir.” (see **Board Review 12**).

§ 87(2)(b) stated that approximately five days prior to March 2, 2016, he received a call from Detective Salerno from the 47th Precinct. Det. Salerno told § 87(2)(b) that he needed to turn himself in at the 47th Precinct station house for an alleged domestic violence crime in which § 87(2)(b)'s wife, § 87(2)(b) was the victim. § 87(2)(b) reiterated that he was innocent. Det. Salerno stated that it did not matter and he still needed to turn himself in and they negotiated that § 87(2)(b) would do so on March 2, 2016. Det. Salerno said, “You must enjoy the next couple days.”

On March 2nd, 2016, at some time between approximately 2:30pm and 3:30pm, § 87(2)(b) received a call from Det. Salerno asking why he had not turned himself in yet. § 87(2)(b) who

was at home, was still planning to go to the 47th Precinct stationhouse on that date, but he believed that Det. Salerno told him that he needed to be at the stationhouse by 4:00 p.m. or 4:30 p.m. § 87(2)(b) explained to Det. Salerno multiple times that he did not want to turn himself in for a crime he did not commit. Each time, Det. Salerno then explained to § 87(2)(b) that he still needed to come to the stationhouse and turn himself in because of the report filed by his wife. Approximately one to two hours after that call ended, § 87(2)(b) received the above text message (see Board Review 1).

§ 87(2)(b) stated that after she filed her original domestic violence report, she spoke with Det. Salerno over the phone to say that she falsified the domestic violence incident report and had proof that § 87(2)(b) was not present the day of the alleged incident and should not be arrested. Det. Salerno advised § 87(2)(b) that regardless of what she said the case must end in an arrest and § 87(2)(b) had to turn himself in. On the same date § 87(2)(b) spoke with Det. Salerno over the phone about falsifying her report, an officer knocked on § 87(2)(b)'s door, but she refused to answer. She was told through the door that the officer would contact the Warrant Squad and § 87(2)(b) would be arrested. § 87(2)(b) refused to open the door and the officer left (see Board Review 2).

Det. Salerno stated that § 87(2)(b) filed a domestic incident report stating § 87(2)(b) assaulted her on February 22, 2016. Det. Salerno went to § 87(2)(b)'s apartment to ask her questions regarding the report she filed the following day, but § 87(2)(b) was uncooperative with opening her door and answering any questions. Det. Salerno left a business card under § 87(2)(b)'s door on that date. On February 27, 2016, § 87(2)(b) called Det. Salerno stating that all of the information from her report was true, and she would like § 87(2)(b) to be arrested regarding that incident.

When Det. Salerno called § 87(2)(b) about turning himself in, Det. Salerno informed § 87(2)(b) that if he refused, a warrant would be issued for his arrest. § 87(2)(b) still refused to turn himself in. Within one hour of that call with § 87(2)(b) called Det. Salerno to recant her story and stated she did not want § 87(2)(b) to be arrested. Det. Salerno informed § 87(2)(b) that there was nothing he could do, and § 87(2)(b) was in a “must arrest” situation with the NYPD. On March 2, 2016, Det. Salerno called § 87(2)(b) again to try and negotiate a time and a date for § 87(2)(b) to turn himself in to the police. § 87(2)(b) agreed to turn himself in on this date. At approximately 4:00 p.m., § 87(2)(b) did not arrive at the 47th Precinct stationhouse, so Det. Salerno texted him from his work issued cell phone, “It’s Det. Salerno, we had a gentleman’s agreement that you would be here by 4:00 p.m. today. Let’s get this over with, thank you.” At 4:25 p.m., Det. Salerno texted § 87(2)(b) “Listen, here’s the deal. I gave you the opportunity to turn yourself in like a gentleman, now you want to play games and you will have to suffer the consequences. I will issue a warrant for your arrest and you can be dragged in here like an animal. Good luck sir.” Det. Salerno sent that text message because he wanted to give § 87(2)(b) the opportunity to walk into the stationhouse without handcuffs on and avoid being a wanted man, and also to avoid the Warrant Squad pulling him out of his home then bringing him to the stationhouse (see Board Review 3).

According to Patrol Guide Procedure 203-11, an officer must use the minimum force necessary at the scene of police incident and excessive force will not be tolerated (see Board Review 16).

In OATH case PD v. Jean-Mary, it states that the use of the word “bitch” was “unnecessarily profane and demeaning.” Although some profane statements have been found permissible to gain cooperation with law enforcement orders, the use of that insult, even with a loud civilian using obscene language, was more likely to provoke anger than to procure cooperation (see **Board Review 17**).

§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Squad: 11

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date